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Remarks/Arguments

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Claims 1-21 are pending. Claims 1-21 stand rejected.

Claims 1, 12 and 18 are independent.

The claims have not been amended herein.

Rejection of claims 1 – 21 under 35 U.S.C. 103(a) as being unpatentable by James et al. (US 6,108,739) (hereinafter James) in view of Lynch (US 6,931,430) (hereinafter Lynch).

The Office action on page 2 alleges that claims 1-21 are rejected under 35 U.S.C. 103(a) as being <u>anticipated</u> by James in view of Lynch. The Applicants assume that the Office action meant that claims 1-21 are rejected under 35 U.S.C. 103(a) as being <u>unpatentable</u> over James in view of Lynch. The Applicants respectfully traverse this rejection.

In re Wada and Murphy, Appeal 2007-3733, the BPAI stated that:

> When determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art." *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, "obviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (*citing In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Moreover, as the Supreme Court recently stated, "*there must be some articulated reasoning* with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added)).

The Applicants' claim 1 includes, in part, the features of verification by the actions manager that the resources involved in accomplishing the action <u>will be available at a time when the action is to be carried out as specified by the time indication</u>. (Emphasis added).

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The Office action on page 3 concedes that James fails to disclose the above-mentioned features of claim 1 and alleges that Lynch at Figures 5a-5b, Figure 9, and Column 19 Lines 5-36 provides this teaching. The Applicants have considered Lynch in its entirety and respectfully disagree with this allegation.

Lynch at Column 19, Lines 5-15 discloses an operation whereby if overwriting of managed resources is required, a trusted partner from the symbiotic partners is determined. Such a selection may be based on a predetermined identity, the relative appropriateness of the symbiotic partner over time or such other indication of which symbiotic partner is most stable. Column 19, Lines 16-25 apparently explains an operation for determining whether coherency exists among managed resources between symbiotic partners based on a comparison of coherency indicia. Column 19, Lines 26-35 appears to describe the results of the comparison of coherency indicia, wherein a favorable comparison results in the continuation of normal operation, while an unfavorable comparison results in resynchronization. This operation is completely different from the Applicants' claimed invention.

Although Lynch mentions "managed resources," the cited portions of Lynch do not mention verification by an actions manager that the resources involved in accomplishing the action will be available at a time when the action is to be carried out as specified by the time indication. Lynch in its entirety fails to mention or suggest the claimed features.

As pointed out above, the Office action concedes that James does not disclose or suggest the feature of the resources involved in accomplishing the action will be available at a time when the action is to be carried out as specified by the time indication. As such, the combination of James and Lynch do not suggest this feature of claim 1. Accordingly, the Applicants respectfully maintain that the rejection of claim 1 by 35 U.S.C. 103(a) over the combination of James and Lynch is unfounded and should be withdrawn.

Additionally, MPEP 2142 states:

> "[r]ejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn,*

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441 R.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741, 82 USPQ2c 1385, 1396 (2007) (quoting Federal Circuit statement with approval).

The Office action at the bottom of page 3 simply provides a conclusory statement that it would be obvious to one of ordinary skill in the art at the time of the invention to use the system as disclosed by James and further incorporate a system that verifies resources as taught by Lynch in order to allow for proper managing of the systems resources. The Office does not provide any explanation or supporting evidence as to why one of ordinary skill in the art would understand that Lynch's method for managing resources would apply to James' method of data transfers in multiprocessor computer systems. The only ground being provided is the Examiner's conclusory statement.

As pointed out by Lynch at Column 4, lines 45-64, the symbiotic computing system of Lynch includes a plurality of computers (e.g. laptop, desktop, wearable, and hand-held computers), whereby each of these computers may be coupled to each other via communication links. A central computer system performs network management functions, managing the resources of each served clients. Lynch at Column 3 Lines 28-35 explains that symbiotic computing may be established in various types of network architecture or configuration, such as a client/server environment, a peer-to-peer environment, or an object oriented environment.

In contrast to Lynch, the multi-processor environment of James is established through the use of bus-like interconnects. (James, Column 3 Lines 57-67). The computer systems of James are not established in client/server, peer-to-peer or object oriented environments, as are in Lynch. No explanation at all is provided as to how this conclusion that Lynch's method for managing resources in a network architecture would apply to James' method of data transfers in multiprocessor computer systems.

The Office is simply providing conclusory statements to support the cited references in making this rejection. Nowhere is there any suggestion in James or Lynch, or with the knowledge of one ordinarily skilled in the art, to support these conclusory statements.

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      KSR makes clear that rejections on obviousness cannot be sustained by mere conclusory statements; instead KSR requires that an Examiner provide "some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness." (KSR Opinion at p. 14). An Examiner must "identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does," (KSR Opinion at p. 15). And, the Examiner must make "explicit" this rationale of "the apparent reason to combine the known elements in the fashion claimed," including a detailed explanation of "the effects of demands known to the design community or present in the marketplace" and "the background knowledge possessed by a person having ordinary skill in the art." (KSR Opinion at p. 14). Anything less than such an explicit analysis may not be sufficient to support a prima facie case of obviousness.

      For these additional reasons as discussed above, the Applicants respectfully submit that the rejection under 35 U.S.C. 103(a) should be reversed.

      Independent claims 12 and 18, include similar limitations as those of claim 1 discussed above, and are likewise patentably distinguishable over the combination of James and Lynch for at least the same reasons as those discussed above with respect to claim 1. The respective dependent claims from each of claims 12 and 18, are likewise patentable for at least the above reasons and because each dependent claim includes further distinguishing features.

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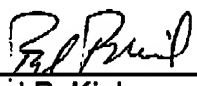
Conclusion

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6815, so that a mutually convenient date and time for a telephonic interview may be scheduled.

It is believed that no additional fees or charges are currently due. However, In the event that any additional fees or charges are required at this time in connection with the application, they may be charged to appplicants' Deposit Account No. 07-0832.

Respectfully submitted,
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